(4D)

HIGH COURT OF CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI JAGDISH BHALLA, Ag. CJ

W.P. (C) No.5714 of 2007

PETITIONER
Plaintiff

Khem Chand Jain
S/o Late Surajmal
Aged about 65 years
R/o Dhamtari, Tahsil & Distt.
Dhamtari (C.G.)

VERSUS

RESPONDENTS
Defendants

1. Gendmal Jain
Aged about 69 years,
S/o Late Hansraj Jain

2. Bhikham Chand Jain
Aged about 75 years,
S/o Late Meghraj Jain
Both R/o Baniyapara,
Dhamtari Tahsil & Distt.
Dhamtari (C.G.)

3. Parmanand S/o Videshi Ram
Sahu, aged 35 years,
Occupation – Agricultural,
R/o Badgaon, Tahsil
Daundilohara, Distt. Durg (C.G.)

4. Tikamram S/o Johan Halba
(Thakur), 55 years,
Occupation – Agricultural,

5. Santram S/o Johan Halba,
Aged about 30 years,
Occupation – Agricultural,
Both R/o Village Badgaon,
Tahsil Daundilohara, Distt.
Durg (C.G.)

6. State of Chhattisgarh
Through the Collector,
Durg (C.G.)

Petition under Article 227 of the Constitution of India

Present: Shri B.L. Dembra, counsel for the petitioner.

ORAL ORDER
(Passed on 20th September, 2007)

This petition is directed against the order dated 17-08-2007 whereby the petitioner's application under Order 7 Rule 14(3) of Code of Civil Procedure has been rejected.

(A1)

Learned counsel for the petitioner submits that the Court below has rejected the aforesaid application on the ground that the affidavit has not been filed in support of the same. Learned counsel for the petitioner could not substantiate that affidavit is not required in support of the application. However, I find that the Court below has passed the speaking order indicating therein that the petitioner has failed to indicate in his application that why he had not filed the document when the same was received by him before the evidence was closed. It was further open for the petitioner to obtain certified copy of the order and file the same. I find that the Court below has passed a speaking and reasoned order in accordance with law. Accordingly, no interference is warranted under Article 227 of the Constitution of India and the writ petition is dismissed.

Sd/-
Jagdish Bhalla
Ag. Chief Justice

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